

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Angus Mordant,

Plaintiff,

- against -

Oath, Inc.

Defendant.

Docket No. 18-cv-2536

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Angus Mordant (“Mordant” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Oath, Inc. (“Oath” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted Pornhub’s SoHo shop. The photograph is owned and registered by Mordant, a NewYork-based professional photographer. Accordingly, Plaintiff seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Mordant is a professional photojournalist having a usual place of business at 261 West 25 Street Apt. 7B, New York, NY 10001.

6. Upon information and belief, Oath is a foreign corporation duly organized and existing under the laws of Delaware with a place of business at 770 Broadway, 4th Floor, New York, New York 10003.

7. At all times material hereto, Defendant has owned and operated the website at the URL: <https://www.engadget.com> (the “Website”).

8. Defendant is a for-profit entity.

9. Defendant publishes news content on the Website accompanied by substantial advertising.

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff’s Ownership of the Photograph**

10. Mordant photographed Pornhub’s SoHo shop in November, 2017. A true and correct copy of the Photograph is attached hereto as Exhibit A.

11. Mordant licensed the photograph to the NY Daily News.

12. The NY Daily New published the Photograph on November 24, 2017. *See* <http://www.nydailynews.com/new-york/pornhub-debuts-soho-pop-up-sex-shop-black-friday-article-1.3653681>.

13. Mordant is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

14. The Photograph was registered with the U.S. Copyright Office and was given Copyright Registration Number VA 2-080-292, effective as of December 26, 2017.

**B. Defendant's Infringing Activities**

15. On or about November 25, 2017, Defendant ran an article on the Website entitled *Pornhub's first store has a livestreaming bed camera, of course. See <https://www.engadget.com/2017/11/25/pornhub-store-includes-livestreaming-bed-camera/>* (the "Article").

16. Defendant's Article prominently featured the Photograph. A true and correct screenshot of the Article as it appears on the Website is attached hereto as Exhibit B.

17. Commercial advertisements on Defendant's Website appear adjacent to, below or above the Photograph as displayed by the Article.

18. Defendant was aware that all rights in the Photograph were owned by Mordant, as the Photograph contained clear copyright notice as to Mordant's rights.

19. Defendant did not obtain a license from Plaintiff to display the Photograph on the Website.

20. Defendant did not have Plaintiff's permission or consent to publish the Photograph on its Website.

21. Prior to publishing the Photograph on the Website, Defendant did not communicate with Plaintiff.

22. Subsequent to publishing the Photograph on the Website, Defendant did not communicate with Plaintiff.

**FIRST CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST OATH)**  
(17 U.S.C. §§ 106, 501)

23. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-22 above.

24. Defendant infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website.

25. Defendant is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

26. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

27. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

28. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

29. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photographs, pursuant to 17 U.S.C. § 504(c).

30. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Oath be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Defendant Oath be ordered to remove the Photograph from the Website.
3. That, with regard to the First Claim for Relief, Plaintiff be awarded either: (a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or (b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
4. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
5. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
6. That Plaintiff be awarded pre-judgment interest; and
7. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
March 21, 2018

LIEBOWITZ LAW FIRM, PLLC

By: /s/Joseph A. Dunne  
Joseph A. Dunne (JD0674)  
11 Sunrise Plaza, Suite 305  
Valley Stream, NY 11580  
Tel: (516) 233-1660  
JD@LiebowitzLawFirm.com

*Attorneys for Plaintiff*  
*Angus Mordant*